

**Assurance of Voluntary Compliance**

**Pursuant to s. 112.7 of the  
*Ontario Energy Board Act, 1998***

**Summitt Energy Management Inc.**

**ER-2013-0037 & GM-2013-00038**

**EB-2017-0005**

**February 6, 2017**

## I. BACKGROUND

On April 5, 2016, Ontario Energy Board (OEB) staff commenced an inspection in relation to consumer complaints received by the OEB against Summitt Energy Management Inc. (Summitt Energy) operating under licenses ER-2013-0037 & GM-2013-00038. The complaints related to Summitt Energy salespersons who were allegedly engaging in acts or omissions considered to be unfair practices when calling on and/or meeting with consumers in person as defined in section 5 of Ontario Regulation 389/10 made under the *Energy Consumer Protection Act, 2010* ("ECPA"). The inspection was conducted under the authority of Part VII of the *Ontario Energy Board Act, 1998* (the "Act") and concerned complaints related to the period of July 2015 to March 2016 (Inspection Period).

The purpose of the inspection was to review the following aspects of Summitt Energy's sales operations:

- a) salesperson conduct
- b) Summitt Energy's compliance and monitoring program and its effectiveness in remediating complaints regarding salesperson conduct

## II. FINDINGS

During the Inspection Period, OEB staff investigated several Summitt Energy salespersons that were the subject of multiple complaints to the OEB alleging unfair practices. More specifically, the OEB reviewed complaints made against Summitt Energy salespersons of alleged misrepresentation of the company the salesperson worked for as well as misrepresentation of savings under a contract. In investigating these salespersons complaints OEB staff concluded that one salesperson, salesperson "LK" had received three complaints of unfair practices within the Inspection Period. Section 7.6 of the Electricity Retailer Code of Conduct and the Code of Conduct for Gas Marketers (the Codes) states the following:

*“Where a retailer receives a bona fide complaint that alleges that a salesperson or verification representative has failed to comply with a material requirement of the Act, the ECPA, the regulations or an applicable Board regulatory requirement in relation to retailing to low volume consumers, the retailer shall ensure that the salesperson or verification representative successfully undergoes remedial training on the subject matter of the complaint (i.e., re-training on the applicable legal or regulatory requirement that the person is alleged to have violated) as a condition of continuing to act on behalf of the retailer in relation to low volume consumers.”*

Salesperson LK was the subject of three bona fide complaints during the Inspection Period. The three complaints were similar in nature, as all alleged a variation of misrepresentation and were made by consumers that had not signed contracts with Summitt Energy. Summitt Energy agrees to, in order to avoid any future contraventions, to take such action as is necessary to prevent any contraventions of section 10 of the ECPA, section 5 14 of Ontario Regulation 389/10 and section 7.6 of the Codes which require Summitt Energy to successfully provide remedial training to all salespersons, and specifically to salesperson LK who has repeated complaints filed by consumers, who had not signed a contract, alleging that LK engaged in unfair practices during the inspection period.

### **III. ASSURANCE**

Summitt Energy hereby assures the OEB that it will pay an administrative monetary penalty in the amount of \$20,000 within two (2) weeks of the date of this Assurance of Voluntary Compliance, and shall be made by cheque in certified funds or electronically with notice sent to the Board Secretary.

**IV. CONSUMER RIGHTS**

Nothing in this Assurance affects any rights a consumer may have under his or her contract, or under any applicable laws.

**V. FAILURE TO COMPLY**

This Assurance has the same force and effect as an order of the OEB pursuant to section 112.7(2) of the Act and any failure to comply with its terms shall be deemed to be a breach of an order of the OEB

**V. EXECUTION OF ASSURANCE**

I have authority to bind Summitt Energy to the terms set out in this Assurance of Voluntary Compliance.

Name: Gerald Haggarty

Title: President

Company: Summitt Energy

Signature: G Haggarty

Dated this 3rd day of <sup>FEBRUARY</sup>~~January~~, 2017